2. CONSTITUTIONAL LAW—*Act March 3, 1898—Ex post facto law.* The Act of March 3, 1898 (Acts 1897-8, p. 864), regulating the catching of fish in the waters of the Commonwealth relates wholly to the future, and is not *ex post facto*, and it is not rendered so because the indictment in this case charges the defendant with violating its provisions both before and after the date of its approval; but for the acts committed before its approval and prohibited thereby, the defendant cannot be convicted.

3. NAVIGABLE WATERS—*Jurisdiction of State—Fishing.* The navigable waters of the State, and the soil under them, within its territorial limits, are the property of the State for the benefit of its people, and it has the right to control them as it sees proper; provided it does not interfere with the authority granted the United States to regulate commerce and navigation. The State has the right to impose a license tax for fishing in such waters.

4. CONSTITUTIONAL LAW—*Equality of taxation—Double taxation—Sufficiency of title of act—Ad valorem system—Object to which tax to be applied.* The act of March 3, 1898 (Acts 1897-8, p. 864) regulating the catching of fish in the waters of the Commonwealth is a valid exercise of the taxing power. The tax imposed is equal and uniform, as all fishermen in the same class are taxed alike. Imposing a license and taxing the fishing tackle is not double taxation. The title of the act is sufficient to cover the body, and the business cannot be reached on the *ad valorem* system. Whether or not a business can be reached by the *ad valorem* system is primarily for the legislature, and its determination of that question will never be held erroneous unless it is manifestly so. The act also sufficiently designates the object to which the tax imposed by it is to be applied.

DINGEE, WEINMAN & CO. v. UNRUE'S ADM'X.—Decided at Richmond, March 29, 1900.—*Buchanan*, J:

1. PLEADING—*Declaration—Negligence—How charged.* If the manner in which alleged acts of negligence caused an injury are set out in the declaration with sufficient fullness and clearness to enable the defendant to understand the case made and to know what he is to meet, that is all that is required.

2. PLEADING—*Allegation and proof—Negligence—Incompetent servant.* Where a declaration avers that one of the acts of negligence of defendant contributing to the injury of the plaintiff was the employment and retention in service of an incompetent foreman, evidence of such incompetency is admissible.

3. INSTRUCTIONS—*Evidence to support.* If there is any evidence tending to prove the facts upon which an instruction is based, and the instruction correctly states the law applicable to such facts, it should be given.

4. INSTRUCTIONS—*Misleading expressions—Explanations.* Although a single sentence in an instruction may be misleading, the instruction will not be thereby vitiated if followed by other language intended to explain and which does fully and clearly show what was meant.

5. INSTRUCTIONS—*"Plaintiff's case"—Case at bar.* An instruction that the plaintiff "must prove her case to the satisfaction of the jury" means the case made by the pleading. No evidence of any other case would be admissible, and, in the case at bar, none was received.

6. APPEAL AND ERROR—*Setting aside verdict—Evidence to sustain verdict.* Where a case has been properly submitted to a jury this court cannot disturb their verdict, as contrary to the evidence, unless the evidence is plainly insufficient to sustain it.

RICHMOND CITY v. EPPS, SERGEANT.—Decided at Richmond, March 29, 1900.—*Riely*, J. *Harrison*, J., dissents; *Buchanan*, J., concurs in results:

1. MANDAMUS—*Compensation of officers—When writ will lie. Mandamus* is the proper remedy to compel the payment of the salary or other compensation due to an officer of a municipal corporation where the salary or compensation is fixed by law, and the issue of the warrant therefor and the payment thereof is a mere ministerial duty, but it does not lie if the salary or compensation is in anywise discretionary. The claimant must have a clear and specific legal right to receive the money claimed, and there must be imposed upon the officer on whom the demand is made the specific legal duty to draw the warrant therefor or to pay it.

2. JAILORS—*Fees—State and city prisoners—Sections 3527 to 3532 of Code.* No provision has been made by statute fixing the fees or compensation of the sergeant of a city who is the keeper of its jail for receiving and supporting persons confined in jail for a violation of the ordinances of the city. Sections 3527 to 3532 apply only to State prisoners and fees to be paid out of the State treasury. But if section 3532 applied to city prisoners also, his compensation from the city should be computed without reference to the number of State prisoners confined in jail, and so likewise his compensation from the State should be computed without reference to the number of the city prisoners confined.

PAYNE v. TANCIL.—Decided at Richmond, March 29, 1900.—*Buchanan*, J:

1. SLANDER—*Colloquium—Words actionable per se.* Words are actionable without a colloquium if they consist of a statement of facts or matters which clearly and unequivocally impute to the party charged a criminal offence involving moral turpitude, or which would subject him to an infamous punishment. It is not necessary that they should make the charge in express terms. It is enough, if taken in their plain and proper sense, they would naturally and presumably be so understood by those who heard them.

2. SLANDER—*"Keeping" a woman.* To say of a man that he is "keeping" a woman imports in the connection in which it is used in this case that he has criminal intercourse with her.

3. SLANDER—*Office of innuendo—Adultery or fornication.* The office of an innuendo is to designate, not to enlarge, the meaning of the words spoken, and in this State it is wholly immaterial whether the designation imputes to the plaintiff adultery or fornication, as each is equally punishable under section 3786 of the Code.

4. SLANDER—*Words actionable per se—Innuendo—Surplusage.* If words spoken are *per se* actionable, the fact that the inuendo enlarges their meaning and attributes to them a signification they do not bear does not render the count demurrable. If the words spoken *per se* impute an infamous crime, punishable by law, the innuendo may be rejected as surplusage; if they do not, an innuendo cannot aid them.